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I N A S S E M B L Y

February 3, 2014

Introduced by M. of A. MILLER -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the military law, in relation to enacting the "New York city health and hospitals corporation military pay act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York city health and hospitals corporation military pay act".

3 S 2. Subdivision 5-a of section 242 of the military law, as added by
4 chapter 238 of the laws of 2008, subparagraph (ii) of paragraph (b) and
5 the opening paragraph of paragraph (e) as amended by chapter 240 of the
6 laws of 2008, is amended to read as follows:

7 5-a. Pay for employees of a city with a population of one million or
8 more. This subdivision shall govern the calculation of compensation and,
9 where applicable, repayment of same by public officers or employees of a
10 city with a population of one million or more OR WHO ARE EMPLOYEES OF
11 THE NEW YORK CITY HEALTH AND HOSPITALS CORPORATION who are engaged in
12 the performance of ordered military duty, including time spent traveling
13 to and returning from such duty. In any conflict between this subdivi-
14 sion and any other provision of law with respect to such public servant
15 soldiers, this subdivision shall be controlling.

16 (a) Definitions. As used in this subdivision:

17 (i) "Base pay of city salary" means the base pay received by a public
18 officer or employee from employment by a city. For public officers and
19 employees who, prior to the effective date of this subdivision, elected
20 to participate in a "full pay/repayment plan", have returned to city
21 employment from ordered military duty as of the effective date of this
22 subdivision and are, on the effective date of this subdivision, public
23 officers or employees, the base pay of city salary shall be calculated
24 by the implementing agency as the salary received by the public servant
25 soldier as of the effective date of this subdivision or the date of
26 return to city service, whichever is later.

27 For public officers and employees who, prior to the effective date of
28 this subdivision, elected to participate in a "full pay/repayment plan"

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 and who return to city employment from ordered military duty after the
2 effective date of this subdivision, the base pay of city salary shall be
3 calculated on the date of return to city employment.

4 For public officers and employees who, prior to the effective date of
5 this subdivision, elected to participate in a "full pay/repayment plan"
6 and who have, by the effective date of this subdivision, already sepa-
7 rated from city employment in a manner other than by retirement, and
8 except where the implementing agency shall determine the existence of
9 hardship, the base pay of city salary shall be calculated as the salary
10 received by the public servant soldier as of the date of separation from
11 city service.

12 For public officers and employees who, prior to the effective date of
13 this subdivision, elected to participate in a "full pay/repayment plan"
14 and who separate from city employment in a manner other than retirement
15 after the effective date of this subdivision, and except where the
16 implementing agency shall determine the existence of hardship, the base
17 pay of city salary shall be calculated as the salary received by the
18 public servant soldier as of the date of return to city service.

19 (ii) "Balloon payment" means the payment required for full satisfac-
20 tion of any remaining outstanding repayment obligation after ten years
21 from the date of return from ordered military duty pursuant to paragraph
22 (e) of this subdivision.

23 (iii) "City" means a city with a population of one million or more.

24 (iv) "City salary" means the gross salary received by a public officer
25 or employee from employment by a city, before taxes, deductions, or
26 court-ordered payments, required or voluntary; but excluding payments by
27 a city as employer for health, pension, and other benefits.

28 (v) "Covered operation" means those military operations designated by
29 the federal government of the United States, in support of "Operation
30 Enduring Freedom", "Operation Iraqi Freedom", "Operation Noble Eagle",
31 or successors thereto, or operations specifically connected by federal
32 designation, action or implication with homeland security. The imple-
33 menting agency may make such additional designations on a case-by-case
34 basis as it shall deem, in its discretion, to be in keeping with the
35 spirit and intent of this subdivision.

36 (vi) "Differential pay" means the pay calculated as the difference
37 between a public servant soldier's military salary and city salary,
38 where the military salary is less than the city salary.

39 (vii) "Full pay/repayment plan" means a salary and benefits plan in
40 effect in a city prior to the effective date of this subdivision whereby
41 a public servant soldier elected to receive city salary while on mili-
42 tary duty, but is required to repay the lesser of such city salary or
43 military salary to a city upon return from military duty.

44 (viii) "Implementing agency" means an agency of a city, as designated
45 by the mayor of such city in writing, that is authorized to implement
46 the provisions of this subdivision.

47 (ix) "Military salary" means the gross salary paid by the government
48 of the United States to a public servant soldier for ordered military
49 duty in the armed forces of the United States in a covered operation, as
50 further defined by the implementing agency, provided that such military
51 pay shall be calculated without regard to such extra or additional
52 stipends as hazard pay, housing or food allowances, or other similar
53 additions.

54 (x) "Public officer" or "employee" means a public officer or an
55 employee of a city OR AN EMPLOYEE OF THE NEW YORK CITY HEALTH AND HOSPI-
56 TALS CORPORATION.

1 (xi) "Public servant soldier" means a public officer [or], employee of
2 a city OR AN EMPLOYEE OF THE NEW YORK CITY HEALTH AND HOSPITALS CORPO-
3 RATION performing ordered military duty in connection with a covered
4 operation.

5 (b) The mayor of a city shall designate an agency of such city to be
6 the implementing agency that will administer and implement this subdivi-
7 sion. The implementing agency is hereby authorized to and shall:

8 (i) provide for the continuation of health insurance benefits, to the
9 public servant soldier and to such public servant soldier's family, if
10 the family had been included in such coverage prior to the public serv-
11 ant soldier beginning ordered military duty, under the same terms and
12 conditions as applied to such public servant soldier prior to leaving
13 city employment for ordered military duty; and

14 (ii) provide for hardship under certain conditions determined by the
15 implementing agency for public servant soldiers who elected to partic-
16 ipate in a "full pay/repayment plan". Such conditions shall include, but
17 shall not be limited to, any material unforeseen or compelling changes
18 in circumstances affecting a public servant soldier's ability to repay
19 that occurred since such public servant soldier elected to participate
20 in the "full pay/repayment plan," including but not limited to injuries
21 sustained while on ordered military duty, or a determination by the
22 implementing agency that the public servant soldier is or will be expe-
23 riencing severe economic hardship due to a change in circumstances.
24 Relief may include an extension of the repayment term or a reduction in
25 the percentage of salary dedicated to repayment, or a modification to
26 the requirement for a balloon payment. Such determinations of economic
27 hardship may be made on a case-by-case basis, and the implementing agen-
28 cy may require the provision of such information by the public servant
29 soldier as it deems necessary to make such determination.

30 (c) Subdivision five of this section or any other law to the contrary
31 notwithstanding, until August first, two thousand ten, unless the mayor
32 of a city, in his or her discretion, extends such date, a public officer
33 or employee shall be paid city salary as such public officer or employee
34 for any and all periods of absence while engaged in the performance of
35 ordered military duty, and while going to and returning from such duty,
36 not exceeding thirty working days in any one calendar year and not
37 exceeding thirty working days in any one continuous period of such
38 absence.

39 (d) Subdivision five of this section or any other law to the contrary
40 notwithstanding, until August first, two thousand ten, unless the mayor
41 of a city, in his or her discretion, extends such date, a public servant
42 soldier shall, after having received the city salary to which he or she
43 is entitled pursuant to paragraph (c) of this subdivision, be paid
44 differential pay thereafter on his or her regularly scheduled pay period
45 for the duration of such ordered military duty, if such ordered military
46 duty is in connection with a covered operation. No repayment shall be
47 required to the city for such differential pay received by a public
48 servant soldier, provided that this prohibition on repayment shall not
49 apply in the case of a material error in calculation that results in an
50 unwarranted increase to the public servant soldier. Repayment of any
51 such overage shall be governed by the terms of paragraph (e) of this
52 subdivision.

53 (e) A public officer or employee who, prior to the effective date of
54 this subdivision, elected to participate in a "full pay/repayment plan"
55 and, in having done so, incurred a repayment obligation, shall make
56 repayments in accordance with terms adopted by the implementing agency,

1 except that, with respect to such repayment obligations, such officer or
2 employee shall have satisfied the obligation to repay when he or she has
3 repaid eighty-five percent of the amount of city salary or military
4 salary, whichever is less, less other such discounts implemented by the
5 implementing agency as of the effective date of this subdivision and
6 such incentives as may be implemented by the implementing agency to
7 encourage payment, and no such term shall:

8 (i) require a public officer or employee, while employed by such city,
9 to pay in any pay period more than seven and one-half percent of his or
10 her base pay of city salary toward satisfying his or her repayment obli-
11 gation, except that a term may provide for full satisfaction of any
12 remaining outstanding repayment obligation after ten years from the date
13 of return from ordered military duty; or

14 (ii) require a retired public officer or employee to pay, in any
15 month, an amount more than seven and one-half percent of his or her
16 monthly pension payment, except that a term may provide for full satis-
17 faction of any remaining outstanding repayment obligation after ten
18 years from the date of return from ordered military duty; or

19 (iii) require a public officer or employee separated from employment
20 by such city in a manner other than by retirement, to pay, in any year,
21 an amount more than seven and one-half percent of the base pay of city
22 salary, except that a term may provide for full satisfaction of any
23 remaining outstanding repayment obligation after ten years from the date
24 of return from ordered military duty.

25 (f) Notwithstanding paragraph (e) of this subdivision, a city shall
26 not require the satisfaction of any repayment obligation in the event
27 that a public servant soldier is killed in the performance of ordered
28 military duty.

29 S 3. This act shall take effect immediately.